

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	CASE NO. 08-
	:	
THAYER POWER &	:	
COMMUNICATION LINE	:	
CONSULTATION CO., INC.,	:	
	:	
Debtor.	:	CHAPTER 11
	:	
THAYER POWER &	:	
COMMUNICATION LINE	:	Document No.
CONSULTATION CO., INC.,	:	
	:	
Movant,	:	Date & Time of Hearing:
	:	
	:	October 9, 2008 @ 9:00 a.m.
v.	:	
	:	
KEYBANK NATIONAL ASSOCIATION;	:	
UNITED STATES OF AMERICA,	:	
INTERNAL REVENUE SERVICE,	:	
	:	
Respondents.	:	

MOTION TO USE CASH COLLATERAL

AND NOW, comes the Movant, Thayer Power & Communication Line Consultation Co., Inc., by and through its attorneys, the Quinn Law Firm, and files this Motion to Use Cash Collateral of which the following is a statement:

PARTIES

1. The Movant, Thayer Power & Communication Line Consultation Co., Inc. (hereinafter "Debtor"), is a corporation having a primary business address located at 7400 Market Rd., Fairview, PA 16415. The Debtor is represented by Lawrence C. Bolla, Esquire and the Quinn Law Firm, Inc., 2222 West Grandview Boulevard, Erie, Pennsylvania 16506.

2. The Respondent, KeyBank National Association (hereinafter “KeyBank”), is a financial institution with a place of business located at 127 Public Square, Cleveland, Ohio 44114, Attn: Michael Panichi.

3. The Respondent, the United States of America, oversees the United States Department of the Treasury, Internal Revenue Service (collectively hereinafter “IRS”), which has a place of business located at Federated Investor Tower, 1001 Liberty Avenue, Suite 1300, Pittsburgh, PA 15222, Attn: Ed Pattison.

JURISDICTION AND VENUE

4. On or about October 4, 2008, the Debtor filed a voluntary Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the Western District of Pennsylvania, Erie Division, at Case No. 06-10493 WWB.

5. This Court has jurisdiction over this matter pursuant to the provisions of 28 U.S.C. §1334.

6. This Court has venue over this proceeding pursuant to the provisions of 28 U.S.C. §1409.

7. This is a core proceeding pursuant to the provisions of 28 U.S.C. §157(b) (2).

8. This Motion is filed pursuant to the provision of 11 U.S.C. §363.

KEYBANK PROMISSORY NOTE

9. On or about June 23, 2006, the Debtor as “Borrower” and KeyBank as “Lender” entered into an Promissory Note in the face amount of \$8,500,000.00. A copy of the Promissory Note is attached hereto, made a part hereof, and marked as Exhibit “A.”

10. The current balance due by the Debtor to KeyBank is approximately \$8,500,000.00.

KEY BANK SECURITY INTEREST

11. It is believed and therefore averred that as consideration for the Promissory Note, KeyBank has a security interest in all of the Debtor's assets, including but not limited to deposit accounts, machinery, equipment, inventory and accounts receivable.

INTERNAL REVENUE SERVICE FEDERAL TAX LIEN

12. On or about July 23, 2008, the IRS filed a Federal Tax Lien in the amount of \$2,999,508.34 with the Prothonotary of Erie County, Pennsylvania at Case No. 2008-31651. A copy of the docket report is attached hereto, made a part hereof, and marked as Exhibit "B".

MOTION TO USE CASH COLLATERAL

13. Pursuant to 11 U.S.C. §363, the Debtor is not permitted to use the cash collateral of KeyBank and the IRS (collectively hereinafter "Respondents") without Respondents' consent.

14. The Debtor needs the accounts receivable, inventory, equipment, fixtures, timber, and other collateral upon which Respondents' have a valid and perfected security interest in order to continue to operate its business and successfully reorganize and pay its employees.

15. The Debtor can operate at a profit and pay administrative expenses as they become due. This will allow the Debtor an opportunity to reorganize.

16. An effective reorganization will maximize the value of the assets for the benefit of Respondents and other creditors and the Chapter 11 estate

17. The continuation of the Debtor's business will prevent the diminution in value of the Debtor's assets, including the value of the Respondents' collateral.

18. The Debtor requires use of its cash in order to pay operating expenses. Attached hereto as Exhibit "C" is an estimated short-term budget and forecast.

19. Furthermore, the Debtor proposes to make monthly post-petition payments to Respondent, KeyBank, in the amount of \$25,000 per month and to Respondent, IRS, in the amount of \$25,000 per month until further Order of Court.

20. The use of cash collateral is necessary to the continued operation of the business and to avoid a forced liquidation of the assets. The Debtor requests an order authorizing the use of cash collateral to avoid immediate and irreparable harm to the estate.

21. Accordingly, the Debtor respectfully requests this Honorable Court enter an order authorizing the use of cash collateral pursuant to 11 U.S.C. §363 and grant such other relief as this Court deems appropriate.

WHEREFORE, the Debtor, Thayer Power & Communication Line Consultation Co., Inc., respectfully requests that this Honorable Court enter an Order authorizing the use of cash collateral pursuant to 11 U.S.C. §363 and grant such other relief as this Court deems appropriate.

Dated: October 4, 2008

Respectfully Submitted,

THE QUINN LAW FIRM

/s/Lawrence C. Bolla
Lawrence C. Bolla, Esquire
lbolla@quinnfirm.com
Michael P. Kruszewski, Esquire
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2222 West Grandview Boulevard
Erie, Pennsylvania 16506
Tel: (814) 833-2222
Fax: (800) 309-5069

Proposed Counsel for Debtor

Document #418383, v1

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	:	
KEYBANK NATIONAL ASSOCIATION;	:	
UNITED STATES OF AMERICA,	:	
INTERNAL REVENUE SERVICE,	:	
	:	
Respondents.	:	

CERTIFICATE OF SERVICE OF MOTION FOR USE OF CASH COLLATERAL

I, Lawrence C. Bolla, Esquire, certify under penalty of perjury that I served the above-captioned pleading, Notice of Hearing, Telephone Participation Instructions, Motion for Use of Cash Collateral, and proposed Orders on the parties at the addresses on the attached matrix, on October 4, 2008, by Facsimile Transmission and/or E-Mail or other method as described on the attached list.

EXECUTED ON: October 4, 2008

THE QUINN LAW FIRM

/s/Lawrence C. Bolla
Lawrence C. Bolla, Esquire
lbolla@quinnfirm.com
2222 West Grandview Boulevard
Erie, Pennsylvania 16506
Tel: (814) 833-2222
Fax: (800) 309-5069

Proposed Counsel for Debtor

The following were served:

Office of the United States Trustee
Liberty Center, Suite 970
1001 Liberty Avenue
Pittsburgh, PA 15222

Secured Creditors:

Key Bank
OH-01-27-0504
127 Public Square
Cleveland, OH 44114-1306
Facsimile: (216)689-8468
E-Mail: Mpanichi@keybank.com

Largest 20 Unsecured Creditors:

National Electrical Benefits Fund
2400 Research Blvd.
Suite 400
Rockville, MD 20850

National Electrical Annuity Plan
2400 Research Blvd.
Suite 400
Rockville, MD 20850

Elan Financial Services
200 South Sixth Street
Minneapolis, MN 55402

IBEW Local 71
6322 O'Hara Road
Galloway, OH 43119

Utility Equipment Leasing
N4 W22610 Bluemound Road
Waukesha, WI 53186

Mirk
7629 Chippewa Road
Orville, OH 44667

Windstream
P.O. Box 102063
Atlanta, GA 30368

URS Corporation
Dept. 1028
P.O. Box 12108
Dallas, TX 75312
Malin Berquist & Company
2402 West 8th Street
Erie, PA 16505

IBEW Local 56
185 Pennbriar Drive
Erie, PA 16509

Global Rental Company
P.O. Box 11407
Birmingham, AL 35246

DV Weber Construction
P.O. Box 116
Reedsville, OH 45772

Secretary of Funds (IBEW Local 5)
5 Hot Metal Street, Suite 200
Pittsburgh, PA 15203

Penske Truck Leasing
255 Penske Plaza
Reading, PA 19603

Scott Powerline & Utility
P.O. Box 4008
Monroe, LA 71211-4000

IBEW Local 1319
Room 1217, NE Building
67-69 Public Square
Wilkes-Barre, PA 18701

Roberts Electrical Construction
820 N. Hague Avenue
Columbus, OH 43204

IBEW Local 126
Wachovia Bank Depository
Plan Administrator
35455 Germantown Pike
Collegeville, PA 19426

Doug Hall
584 Deanna Stroll road
12444 Collections Center Drive
Heath, OH 43056

Graybar Electric Co.
12444 Collections Center Drive
Chicago, IL 60693

Taxing Bodies:

Internal Revenue Service
ATTENTION: Ed Pattison
Federal Investor Tower
1001 Liberty Avenue
Suite 1300
Pittsburgh, PA 15222
Facsimile (412)395-4684

Internal Revenue Service
Insolvency Unit
P.O. Box 628
Pittsburgh, PA 15230

Internal Revenue Service
District Counsel
1001 Liberty Avenue, Suite 601-C
Pittsburgh, PA 15222

Julia L. Wahl, Esquire
Special Assistant to the U.S. Attorney
Suite 601 Liberty Center
1001 Liberty Avenue
Pittsburgh, PA 15222

Pennsylvania Department of Revenue
Department 280946
Harrisburg, PA 17128-0946

Bureau of Employer Tax Operations
Unemployment Compensation Taxes
Pennsylvania Department of Labor & Industry
c/o Office of Chief Counsel
914 Penn Avenue 6th Floor
Pittsburgh, PA 15222

Bureau of U.C Benefits & Allowances
Pennsylvania Department of Labor & Industry
c/o Office of Chief Counsel/ES Division
10th Floor Labor & Industry Bldg.
7th and Forster Sts.
Harrisburg, PA 17120

Bureau of Workers' Compensation
Pennsylvania Department of Labor & Industry
c/o Office of Chief Counsel/BWC Division
1171 South Cameron Street
Harrisburg, PA 17104-2501